

An aerial photograph of a rugged coastline. The water is a vibrant turquoise color, contrasting with the dark, jagged rocks. A narrow, light-colored sandy beach is visible where the water meets the shore. The overall scene is natural and scenic.

# DETERMINING THE RISKS TO SCOTLAND'S SOILS

**Luke Bradley**  
Senior Environmental Analyst

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**ENVIRONMENTAL**  
Standards Scotland

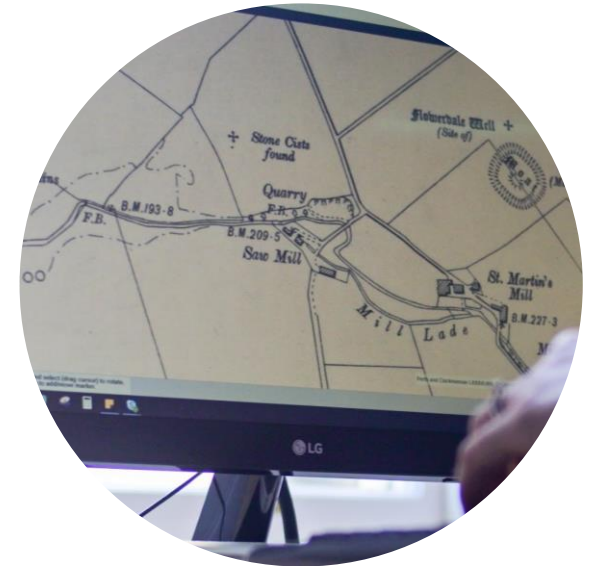
# WHO I AM



LUKE BRADLEY, BSC  
ENVIRONMENTAL GEOSCIENCE,  
CHARTERED ENVIRONMENTALIST



PRINCIPAL ENVIRONMENTAL  
CONSULTANT



SENIOR ENVIRONMENTAL ANALYST

**ENVIRONMENTAL**  
Standards Scotland  
Ìrean Àrainneachdail na h-Alba

# ENVIRONMENTAL

## Standards Scotland

1. **Background** – where have we come from?
2. **Functions** – what can we do?
3. **Progress** – our work on soils.

# ENVIRONMENTAL

## Standards Scotland

### Background

- EU exit => end of European Commission's oversight and EU Court of Justice's power to compel compliance with environmental law and impose sanctions
- Withdrawal from the European Union (Continuity) (Scotland) Act 2021
- ESS established from 1 October 2021 as a **non-ministerial office** to oversee all public bodies and local authorities
- Independent of Scottish Ministers – report to the Scottish Parliament
- SG commitment to keep pace with European legislation

# ENVIRONMENTAL Standards Scotland

## Functions

- To monitor and investigate:
  - public bodies' compliance with environmental law
  - the effectiveness of environmental law (including international obligations) and how it is implemented and applied
- **Reactive** (representations) and **proactive** (based on monitoring and analysis)
- Do not deal with individual cases unless raise a wider issue. Not an appeals body or ombudsman.

# ENVIRONMENTAL Standards Scotland

## Functions: duties and powers

- Key powers:
  - information notices – to obtain information from bodies
  - compliance notices – issued to public bodies
  - improvement reports – issued to Scottish Government and laid in the Scottish Parliament. Requires improvement plan in six months
  - apply for judicial review – if issue is serious
- Public bodies have a duty to cooperate with ESS

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Priorities	Details
Air	<ul style="list-style-type: none"><li>• Air quality standards/targets (particulate matter)</li></ul>
Biodiversity	<ul style="list-style-type: none"><li>• Biodiversity decline</li><li>• Invasive non-native species</li></ul>
Climate Change	<ul style="list-style-type: none"><li>• Progress against GHG emission targets</li><li>• Progress on climate change adaptation</li></ul>
Governance	<ul style="list-style-type: none"><li>• Access to environmental justice, including Aarhus Convention compliance</li></ul>
Human Health	<ul style="list-style-type: none"><li>• Antimicrobial resistance</li><li>• Noise</li></ul>
Land and Soil	<ul style="list-style-type: none"><li>• <b>Soil health</b></li></ul>
Resource Use and Waste	<ul style="list-style-type: none"><li>• Illegal disposal and management of waste</li><li>• Development of the circular economy</li></ul>
Water	<ul style="list-style-type: none"><li>• Sewage discharge into the aquatic environment</li><li>• Marine environment</li><li>• Progress on River Basin Management Planning</li></ul>



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### Progress

#### **Determining the Risks to Scotland's Soils**

- Ongoing project due to report late this year or early next year
- Consulted a range of government departments and bodies, NGOs and private sector firms to identify pressures
- Intended as an overview of the pressures – those that require further investigation will be looked at in more detail in future projects



# ENVIRONMENTAL Standards Scotland

## Progress

### Contaminated Land

- No conclusions at this stage
- Emerging contaminants
- Contaminated Land Register
- Lack of guidance
- Land sealing

# ENVIRONMENTAL Standards Scotland

## Progress

### Soil as a Waste

- No conclusions at this stage
- Landfill Tax
- Exemption sites

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## Standards Scotland

### Progress

#### Is there a better way?

- Asked of recommendations for good examples of international soil law
- Swiss National Soil Strategy
- EU Soil Monitoring Law
- Germany

### Representations

- Shooting range potentially contaminating a site with lead shot, impacting a private water supply
- Application of Part 2A only to historical sites
- Consultation for Part 2A confirms this is correct
- Scottish Government Policy Guidance also agrees that Part 2A is only for historic contamination

# ENVIRONMENTAL Standards Scotland

## Progress

### Representations

- No further investigation-
- Other regimes exist to rectify ongoing contamination
- Legislative guidance states that Part 2A is intended to handle historic contamination
- No evidence that these regimes are systematically ineffective in protecting the environment and humans from contamination.

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## Standards Scotland

**Thank you for your time**

 [luke.bradley@environmentalstandards.scot](mailto:luke.bradley@environmentalstandards.scot)

 [www.environmentalstandards.scot](http://www.environmentalstandards.scot)